

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANTOINETTE FAIRLEY,

Plaintiff,

v.

STATE FARM MUTUAL,  
AUTOMOBILE INSURANCE CO.,

Defendant.

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Case No. 08-10924

John Feikens  
United States District Judge

Michael Hluchaniuk  
United States Magistrate Judge

**ORDER GRANTING MOTION TO WITHDRAW (Dkt. 6)  
AND GRANTING MOTIONS TO COMPEL (Dkt. 5, 12)**

This case involves an action by plaintiff Antoinette Fairley against defendant for benefits under an automobile insurance policy. The case was originally filed in state court and removed to federal court by defendant. (Dkt. 1).

On September 11, 2008, defendant filed a motion to compel that related to requests for medical records and deposition dates that defendant had previously requested from plaintiff. (Dkt. 5). On September 12, 2008, plaintiff's attorney filed a motion to withdraw. (Dkt. 6). After apparently receiving some answers to discovery, defendant filed a second motion to compel, requesting more specific

answers to discovery. (Dkt. 12). On October 22, 2008, District Judge John Feikens referred this case to the undersigned for all pretrial purposes. (Dkt. 10).

Pursuant to notice, a hearing on these motions was held telephonically on November 13, 2008. (Dkt. 11, 16). Matthew J. Nagaj, attorney for plaintiff, and Diane L. Aimar-Saylor, attorney for defendant, participated in the hearing. With respect to the motion to withdraw, Mr. Nagaj indicated that his relationship with his client had broken down and that he was unsure whether plaintiff intended on obtaining a new attorney or even whether plaintiff intended to continue with this litigation under any circumstances. Counsel for defendant did not object to Mr. Nagaj withdrawing as counsel for plaintiff. With respect to the motion to compel, the primary obstacle to defendant obtaining the discovery it has requested appears to be the failure of plaintiff to communicate with her counsel, as described by Mr. Nagaj at the November 13, 2008 hearing.

Based on the foregoing, **IT IS ORDERED** that the motion to withdraw by plaintiff's counsel is **GRANTED** and plaintiff is directed to obtain new counsel within 30 days of the entry of this order or be prepared to prosecute this matter without counsel. Mr. Nagaj is directed to serve a copy of this order on plaintiff by mailing a copy of the order to plaintiff's last known address and he must certify to the Court that such service has been accomplished.

**IT IS FURTHER ORDERED** that defendant's motion to compel is **GRANTED** to the extent that plaintiff is required to provide signed authorizations allowing defendant to obtain plaintiff's medical or other records from each of the doctors or other entities identified in its motion to compel and that plaintiff is ordered to fully respond to defendant's first request for production of documents, which is attached to defendant's motion to compel. Plaintiff is ordered to comply with the requirements of this Order within 30 days of its entry. Defendant's counsel is directed to inform the Court in writing following this 30 day period as to whether plaintiff has so complied. In the event that plaintiff does not comply with this Order within that time period the undersigned will recommend that the present action be dismissed as a sanction for failing to comply pursuant to Rule 37(b)(2)(A)(v).

**IT IS SO ORDERED.**

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party

objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objection must be served on this Magistrate Judge.

Date: November 14, 2008

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I certify that on November 14, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: Diane L. Aimar-Saylor, James F. Hewson, and Barry F. LaKritz, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: not applicable.

s/James P. Peltier  
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